

Notice of Allowability

Application No.

09/370,776

Applicant(s)

KUBOTA ET AL.

Examiner

Paul Callahan

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8-27-2005.
2. ☒ The allowed claim(s) is/are 1,4-7,120,121 and 123.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

1. Claims 1, 4-7, 120, 121, and 123 are pending in this application and have been examined.

Response to Arguments

2. Applicant's arguments, filed 8/29/2005, with respect to claims 1, 4-7, 120, 121, and 123 have been fully considered and, when taken together with the changes made to the language of the claims by the latest amendment are persuasive. The 35 USC 112 2nd rejections of the claims has been withdrawn.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE SPECIFICATION:

Page 1, before line 1, add the following:

-- This is a continuation of copending International Application PCT/JP98/03127 having an international filing date of 13 July 1998. U.S. Applications 09/589,593 and 09/589,822 are divisional applications of this application. U.S. Applications 11/145,890, 11/145,891, 11,145, 898, and 11/146, 974 are continuations of 09/589,593. --

Allowable Subject Matter

3. Claims 1, 4-7, 120, 121, and 123 are allowed.

4. The following is an examiner's statement of reasons for allowance:

The closest prior art in the field, Kurihara 6,069,956, Yanagidaira 5,367,269, and Legall 5,929,916, when taken in combination with each other and with the other prior art in the field do not teach the features found in the independent claims of: an encoder controlling means for assigning higher or lower encoding bit rates to each of a plurality of encoders when encoding each of the plurality of data elements based on bit rate generation generated from each of the plurality of data elements. All in combination with the other limitations found in the independent claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (571) 272-3869. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Emmanuel Moise, can be reached on (571) 272-3865. The fax phone

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number for the organization where this application or proceeding is assigned is: (571)
273-8300.

11/09/2005

Matthew B. Smithers
MATTHEW SMITHERS
PRIMARY EXAMINER
Art Unit 2137